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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 RAYMOND A. ROSS,

12 Plaintiff,

13 vs.

13 STATE OF CALIFORNIA, D.  
14 RICHARDSON, R. MOREL & M. VELA, et  
al.,

15 Defendants.

CASE NO. 09cv359 WQH (JMA)

**ORDER**

16 HAYES, Judge:

17 The matter before the Court is the Application for Temporary Restraining Order (Doc. # 1).

18 **Background**

19 On February 24, 2009, Plaintiff initiated this action by filing a document entitled "Requesting  
20 Emergency injunctive relief due to Civil Rights violations and the possibility of criminal obstruction  
21 of justice committed by the defendants" ("Application for TRO").

22 Plaintiff alleges that California State employee D. Richardson conspired with other state  
23 employees to "engage and commit the crime of abduction, kidnapping with the intent to obstruct  
24 justice, violate my First, Fourth, Sixth and Fourteenth amendment rights, and the first amendment  
25 rights of members of the press." *Application for TRO*, p. 1-2. Plaintiff alleges that Defendants  
26 "conspired to retaliate for my contacting and reporting their abuse of my civil rights," for "reporting  
27 their inappropriate conduct regarding my ADA request for reasonable accommodation and the  
28 violations of my civil rights," and "for other illegal conduct" by "creating a fraudulent parole

1 violation resulting in a warrant for my arrest.” *Id.* at 2.

2 Plaintiff states: “Because the June 23, 2006 retaliation warrant resulted in the interruption of  
3 my Social Security Disability Income-benefits[] I would like to make a motion to the court for a court  
4 order forcing the State of California to send me a check for the back SSDI payments due me . . . , to  
5 satisfy by ADA request . . . [and] for a HUD section 8 style rental subsidy for safe and decent rental  
6 housing.” *Id.* at 2-3. Plaintiff states that he “would like to make a motion for a court order recalling  
7 any current warrants issued by the State of California and a restraining order preventing the State of  
8 California and its agents from the issuance of any future warrants until the conclusion of this Federal  
9 Civil Rights case.” *Id.* at 3.

### 10 Applicable Law

11 Rule 65(b) of the Federal Rules of Civil Procedure provides that a court may issue a TRO  
12 without notice to the adverse party where “specific facts in an affidavit or a verified complaint clearly  
13 show that immediate and irreparable injury, loss, or damage will result to the movant . . . .” FED. R.  
14 CIV. P. 65(b). Regardless of notice to Defendant, the standard for issuing a TRO is similar to the  
15 standard for issuing a preliminary injunction, and requires that the party seeking relief show either “(1)  
16 a combination of likelihood of success on the merits and the possibility of irreparable harm, or (2) that  
17 serious questions going to the merits are raised and the balance of hardships tips sharply in favor of  
18 the moving party.” *Homeowners Against the Unfair Initiative v. Calif. Building Industry Assoc.*, Civil  
19 No. 06CV152 JAH (WMc), 2006 U.S. Dist. LEXIS 97023, \*4 (S.D. Cal. Jan. 26, 2006) (citing  
20 *Immigrant Assistance Project of the L.A. County of Fed’n of Labor v. INS*, 306 F.3d 842, 873 (9th Cir.  
21 2002)). “[T]hese two formulations represent two points on a sliding scale in which the required  
22 degree of irreparable harm increases as the probability of success decreases.” *Dep’t Parks & Rec. of*  
23 *Calif. v. Bazaar Del Mundo, Inc.*, 448 F.3d 1118, 1123 (9th Cir. 2006) (citations omitted). The  
24 underlying purpose of a temporary restraining order is to preserve the status quo and prevent  
25 irreparable harm before a preliminary injunction hearing may be held. *Granny Goose Foods, Inc. v.*  
26 *Bhd. of Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974); *see also Reno Air Racing Ass’n*  
27 *v. McCord*, 452 F.3d 1126, 1130-31 (9th Cir. 2006).

